

GOVERNING INTERNATIONAL FISHERY AGREEMENT
BETWEEN THE UNITED STATES AND POLAND

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A COPY OF AN EXTENSION OF THE GOVERNING INTERNATIONAL
FISHERY AGREEMENT BETWEEN THE UNITED STATES AND
POLAND, PURSUANT TO PUBLIC LAW 94-265, SEC. 203(a)



MAY 7, 1984.—Message and accompanying papers referred to the
Committee on Merchant Marine and Fisheries and ordered to be printed

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WASHINGTON : 1984

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

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To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith an exchange of Diplomatic Notes, together with the present agreement, extending the Governing International Fishery Agreement between the United States and Poland, signed at Washington on August 2, 1976, until December 31, 1985. The exchange of notes together with the present agreement constitute a Governing International Fishery Agreement within the requirements of Section 201(c) of the Act.

Several U.S. fishing interests have urged prompt consideration of this agreement. In view of the July 1 expiration date of the current agreement, I urge that the Congress give favorable consideration to this extension at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *May 4, 1984.*

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DEPARTMENT OF STATE,
Washington, March 7, 1984.

The Department of State wishes to draw to the attention of the Embassy of Poland the Agreement Between the Government of the United States of America and the Government of Poland Concerning Fisheries Off the Coasts of the United States, signed August 2, 1976, as amended, and due to expire on July 1, 1984.

The Government of the United States proposes that this Agreement be extended until December 31, 1985.

If the Government of Poland agrees to such an extension, it is proposed that this note and the Embassy's reply thereto shall constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments.

DEPARTMENT OF STATE, DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

WARSAW, March 30, 1984.

LS No. 112564, EMF, Polish.
D III AR 36-1-84.

THE EMBASSY OF THE UNITED STATES OF AMERICA,
Warsaw.

The Ministry of Foreign Affairs of the Polish People's Republic presents its compliments to the Embassy of the United States of America in Warsaw and has the honor to make the following statement:

1. The Ministry of Foreign Affairs of the Polish People's Republic acknowledges receipt of the State Department's note of March 7, 1984 addressed to the Embassy of the Polish People's Republic in Washington, which reads as follows:

"The Department of State wishes to draw to the attention of the Embassy of Poland the Agreement between the Government of the United States of America and the Government of Poland Concerning Fisheries off the Coasts of the United States, signed August 2, 1976, as amended, and due to expire on July 1, 1984.

"The Government of the United States proposes that this Agreement be extended until December 31, 1985.

"If the Government of Poland agrees to such an extension, it is proposed that this note and the Embassy's reply thereto shall constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments."

The Ministry of Foreign Affairs of the Polish People's Republic has the honor to state that the Government of the Polish People's Republic agrees to the extension until December 31, 1985, of the

Agreement between the Government of the Polish People's Republic and the Government of the United States of America concerning fisheries off the coasts of the United States of America, signed on August 2, 1976. The Government of the Polish People's Republic likewise agrees that the quoted note of the Department of State of March 7, 1984 together with the reply of the Ministry of Foreign Affairs of the Polish People's Republic shall constitute an agreement between the two Governments, which shall enter into force upon written notification of the completion of the internal procedures of the two Governments.

2. The Government of the Polish People's Republic considers that the aforesaid extension of the Agreement between the Government of the Polish People's Republic and the Government of the United States of America concerning fisheries off the coasts of the United States, of August 2, 1976, means the reimplementation of all clauses of that Agreement, including the clauses relating to the right of access for Polish fishing vessels to engage in fishing in the United States conservation zone and make the allocated catches.

3. In agreement with the standpoint transmitted separately the Government of the Polish People's Republic is of the opinion that the discussion of cooperation in the field of fisheries should be constant and long-term, founded on adequate legal safeguards. Such safeguards might be explicitly set forth by way of an annex to the Agreement presently in force, but a lasting solution should be found in a new discussion of fisheries between the Government of the Polish People's Republic and the Government of the United States of America.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy the assurances of its high consideration.
(L. S.)

DEPARTMENT OF STATE,
Washington, April 12, 1983.

The Department of State wishes to draw to the attention of the Embassy of Poland the Agreement Between the Government of the United States of America and the Government of Poland Concerning Fisheries Off the Coasts of the United States, signed August 2, 1976, and due to expire on July 1, 1983.

The Government of the United States proposes that this Agreement be extended until July 1, 1984.

If the Government of Poland agrees to such an extension, it is proposed that this note and the Embassy's reply thereto shall constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments.

EMBASSY OF THE POLISH PEOPLE'S REPUBLIC,
Washington, D.C., April 21, 1983.

No. 21-9-83.

The Embassy of the Polish People's Republic has the honour to acknowledge receipt of the note of the Department of State dated April 12, 1983, which reads as follows:

"The Department of State wishes to draw to the attention of the Embassy of Poland the Agreement Between the Government of

Poland Concerning Fisheries Off the Coast of the United States, signed August 2, 1976, and due to expire on July 1, 1983.

"The Government of the United States proposes that this Agreement be extended until July 1, 1984.

"If the Government of Poland agrees to such an extension, it is proposed that this note and the Embassy's reply thereto shall constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments."

The Government of the Polish People's Republic agrees that the Agreement Between the Government of Poland and the Government of the United States of America Concerning Fisheries Off the Coast of the United States, signed August 2, 1976, be extended until July 1, 1984.

It also agrees that the above cited note of the Department of State, dated April 12, 1983, and the present embassy's reply thereto will constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments.

DEPARTMENT OF STATE,
Washington, May 20, 1982.

The Department of State wishes to draw to the attention of the Embassy of Poland the Agreement Between the Government of the United States of America and the Government of Poland Concerning Fisheries Off the Coasts of the United States, signed August 2, 1976, and due to expire on July 1, 1982.

The Government of the United States proposes that this Agreement be extended until July 1, 1983.

If the Government of Poland agrees to such an extension, it is proposed that this note and the Embassy's reply thereto shall constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments.

EMBASSY OF THE POLISH PEOPLE'S REPUBLIC,
Washington, D.C., May 24, 1982.

No. 21-1/14-82.

The Embassy of the Polish People's Republic presents its compliments to the Department of State and has the honor to acknowledge receipt of the Department's Note of May 20, 1982 which reads as follows:

"The Department of State wishes to draw to the attention of the Embassy of Poland the Agreement Between the Government of the United States of America and the Government of Poland Concerning Fisheries Off the Coasts of the United States, signed August 2, 1976, and due to expire on July 1, 1982.

"The Government of the United States proposes that this Agreement be extended until July 1, 1983.

"If the Government of Poland agrees to such an extension, it is proposed that this note and the Embassy's reply thereto shall constitute an agreement between the two Governments, which shall

enter into force following written notification of the completion of internal procedure of both Governments".

The Government of the Polish People's Republic agrees that the Agreement Between the Government of Poland and the Government of the United States of America Concerning Fisheries Off the Coasts of the United States, signed August 2, 1976, be extended until July 1, 1983.

It also agrees that the above cited note of the Department of State, dated May 20, 1982, and the present Embassy's reply thereto will constitute an agreement between the two Governments, which shall enter into force following written notification of the completion of internal procedures of both Governments.

The Embassy of the Polish People's Republic avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the Polish People's Republic

Considering their common concern for the rational management, conservation and optimum utilization of fish stocks off the coasts of the United States;

Acknowledging the fishery management authority of the United States as set forth in the Fishery Conservation and Management Act of 1976;¹

Having regard for the discussions of the Third United Nations Conference on the Law of the Sea regarding coastal state rights over fisheries off its coasts;

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States exercises fishery management authority; and

Recalling their Agreement Regarding Fisheries in the Northeastern Pacific Ocean off the Coast of the United States,² and the principles set forth therein anticipating legal and jurisdictional changes in the regime of fisheries management;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to ensure effective conservation, optimum utilization and rational management of the fisheries of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by Polish nationals and vessels for the living resources over which the United States exercises fishery management authority as provided by United States law.

ARTICLE II

As used in this Agreement, the term

¹ 90 Stat. 331; 16 U.S.C. § 1801 note.

² TIAS 8354; 27 UST.

1. "living resources over which the United States exercises fishery management authority" means all fish within the fishery conservation zone of the United States except highly migratory species, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters, throughout their migratory range, and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "fishery" means

a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

b. any fishing for such stocks;

4. "fishery conservation zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "fishing" means

a. the catching, taking or harvesting of fish;

b. the attempted catching, taking or harvesting of fish;

c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or

d. any operations at sea directly in support of, or in preparation for, any activity described in sub-paragraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity conducted by a scientific research vessel;

6. "fishing vessel" means any vessel, boat, ship or other craft that is used for, equipped to be used for, or of a type that is normally used for

a. fishing; or

b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean;

8. "marine mammals" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

1. The Government of the United States is willing to allow access for Polish fishing vessels to harvest, in accordance with conditions

and restrictions to be established in permits issued under Article VI, an allocation of that portion of the allowable catch for a specific fishery that will not be harvested by United States fishing vessels.

2. The Government of the United States shall determine each year, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks,

a. the total allowable catch for each fishery on the basis of the best available scientific evidence, taking into account the interdependence of stocks, internationally accepted criteria, and all other relevant factors;

b. the harvesting capacity of United States fishing vessels in respect of each fishery;

c. the portion of the total allowable catch for a specific fishery that, on an annual basis, will not be harvested by United States fishing vessels; and

d. the allocation of such portion that can be made available to qualifying Polish fishing vessels.

3. In implementation of paragraph 2.d. of this Article, the United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. Such measure, may include, *inter alia*:

a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;

c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel or the total fleet may engage in fishing in a designated area within the fishery conservation zone or for a specified fishery;

d. requirements as to the types of gear that may, or may not, be employed;

e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Government of Poland of the determinations provided for by this Article on a timely basis.

ARTICLE IV

In determining the portion of the surplus that may be made available to Polish vessels, and vessels of other countries, the Government of the United States will promote the objective of optimum utilization, taking into account, *inter alia*, traditional fishing, if any, contributions to fishery research and the identification of stocks, previous cooperation in enforcement, previous cooperation with respect to conservation and management of fishery resources of mutual concern, and the need to minimize economic dislocation

in cases where vessels have habitually fished for living resources over which the United States now exercises fishery management authority.

ARTICLE V

The Government of Poland shall take all necessary measures to ensure:

1. that Polish nationals and vessels refrain from fishing for living resources over which the United States exercises fishery management authority except as authorized pursuant to this Agreement;
2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and
3. that the total allocation referred to in Article III, paragraph 2.d. of this Agreement is not exceeded for any fishery.

ARTICLE VI

The Government of Poland may submit an application to the Government of the United States for a permit for each Polish fishing vessel that wishes to engage in fishing in the fishery conservation zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with Annex I to this Agreement, which shall constitute an integral part hereof. The Government of the United States may require the payment of reasonable fees for such permits.

ARTICLE VII

The Government of Poland shall ensure that Polish nationals and vessels refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE VIII

The Government of Poland shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each Polish vessel is prominently displayed in the wheelhouse of such vessel;
2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each vessel;
3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the equivalent rank of ship's officer while aboard such vessel, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to a vessel owner or operator for any cause arising out of the conduct of fishing activities under this Agreement; and

5. all necessary measures are taken to ensure the prompt and adequate compensation of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear or catch that is proximately caused by any Polish fishing vessel.

ARTICLE IX

1. The Government of Poland shall take such measures as may be necessary to ensure that each Polish vessel authorized to fish pursuant to this Agreement, and any other Polish fishing vessel that engages in fishing for living resources subject to the fishery management authority of the United States, shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement official of the United States, and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

2. In cases where a Polish fishing vessel has violated a provision of this Agreement or a provision of a permit issued pursuant thereto, the Government of the United States shall immediately notify the Government of Poland through diplomatic channels of the facts and the action taken.

3. Both Governments agree to the continuation of the U.S.-Polish Fisheries Board created by Annex I of the Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Regarding Fisheries in the Western Region of the Middle Atlantic Ocean, signed in Washington, May 29, 1975,³ as amended, and as set forth in Annex II of this Agreement. Annex II of this Agreement forms an integral part of this Agreement.

ARTICLE X

1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on Polish vessels, or their owners or operations, that violate the requirements of this Agreement or of any permit issued hereunder.

2. In cases of arrest of a Polish fishing vessel, the economic loss encountered by the vessel and crew because of lost fishing time shall be minimized through prompt release of the vessel and crew upon the posting of reasonable bond or other security.

ARTICLE XI

The Government of Poland undertakes to cooperate with the Government of the United States in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the fishery management authority of the United States, including the compilation of the best available scien-

³ TIAS 8099; 26 UST 1135.

tific information required for the management and conservation of stocks of mutual concern. The competent agencies of the two Governments shall enter into such arrangements as may be necessary to facilitate such cooperation, including the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and the implementation and maintenance of a standardized system for the collection and archiving of relevant statistical and biological information in accordance with the procedures in Annex III, which constitutes an integral part of this Agreement.

ARTICLE XII

The Government of the United States and the Government of Poland shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE XIII

The Government of the United States undertakes to authorize Polish fishing vessels allowed to fish pursuant to this Agreement to enter designated ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or for such other purposes as may be authorized.

ARTICLE XIV

Should the Government of the United States indicate to the Government of Poland that United States nationals and vessels wish to engage in fishing in the fishery conservation zone of Poland, or its equivalent, the Government of Poland will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XV

Nothing contained in the present Agreement shall prejudice the views of either Government with respect to the existing territorial or other jurisdiction of the coastal State for all purposes other than the conservation and management of fisheries.

ARTICLE XVI

1. This Agreement shall enter into force on a date to be mutually agreed by exchange of notes,⁴ following the completion of the internal procedures of both Parties, and shall remain in force until July 1, 1982 unless terminated sooner by either Party after giving written notification of such termination one year in advance.

2. This Agreement shall be subject to review by the two Governments two years after its entry into force or upon the conclusion of

⁴Feb. 28, 1977.

a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE in Warsaw, August 2, 1976, in duplicate, in the English and Polish languages, both texts being equally authentic.

For the Government of the United States of America:

ROZANNE L. RIDGWAY.

For the Government of the Polish People's Republic:

E. WISNIEWSKI.

ANNEX I

APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the applications for and issuance of annual permits authorizing Polish vessels to engage in fishing for living resources over which the United States exercises fishery management authority:

1. The Government of Poland may submit an application to the Government of the United States for each Polish fishing vessel that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify

a. the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

b. the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;

c. a specification of each fishery in which each vessel wishes to fish;

d. the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;

e. the ocean area in which, and the season or period during which, such fishing would be conducted;

f. such other relevant information as may be requested, including desired transshipment areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions related to fishery management and conservation may be needed, and what fee will be required. The Government of the United States shall inform the Government of Poland of such determinations.

4. The Government of Poland shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Government of Poland and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each Polish fishing vessel, which is thereupon authorized to fish in accordance with this Agreement and the terms and

conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Government of Poland notifies the Government of the United States of its objections to specific conditions and restrictions, the two Governments may consult with respect thereto and the Government of Poland may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

ANNEX II

AMERICAN-POLISH FISHERIES BOARD

SECTION I

Establishment of the Board

1. There is hereby established an American-Polish Fisheries Board (hereinafter called the Board).

2. The Board shall consist of four members, two appointed by the Government of the United States of America and two appointed by the Government of the Polish People's Republic. At least one of the two members appointed by each Government shall have knowledge of the general principles of international law, particularly those relating to fisheries matters. Each Government-appointed member shall serve as an instructed representative of the appointing Government. It is the responsibility of each Government to maintain its full complement of members.

3. Each Government may appoint one non-voting technical adviser to the Board for each matter heard.

4. All decisions of the Board shall be undertaken unanimously by those members present and voting, so long as at least one member appointed by each Government is present.

5. The Board shall normally sit in New York, New York. Insofar as is necessary considering the location of the parties and the availability of evidence, the Board may sit elsewhere.

6. English and Polish shall be the official working languages of the Board. The Governments shall assist the Board in arranging for necessary translations and interpretations.

7. As used in this Annex, the term "national" refers to any vessel or person, natural or juridical, including but not limited to a governmental entity.

SECTION II

Conciliation Functions

1. The Board shall consider claims advanced by a national of either State against a national of the other State regarding financial loss resulting from damage to or loss of the national's fishing vessel or fishing gear.

2. No claim may be brought more than six months after the occurrence of the relevant incident, unless the Board decides unanimously to make an exception for a specific incident occurring

during the six weeks prior to the entry into force of the Agreement.

SECTION III

Conciliation Procedures

1. The Board shall establish its procedures in accordance with this Annex.

2. A claim, as referred to in Section II above, shall be brought before the Board by a written request. The request shall be in the form of a sworn statement which shall include, *Inter alia*, a detailed account of the incident from which the claim arises, the identity of all persons and vessels involved, the remedy sought (damages claimed), and a list of potential witnesses knowledgeable about the incident. All appropriate documentary evidence supporting the claim shall be forwarded with the claim to the Board.

3. Upon receipt of a claim, the Board shall, as soon as practicable, commence an inquiry into the incident, and inform both Governments. Each Government shall immediately notify any of its nationals against whom a claim is made. Its nationals may in turn file with the Board a sworn statement responding to the claim. The response may contain a counterclaim insofar as the counterclaim arises from the same incident upon which the claim is based. A counterclaim shall be in the same form and contain the same information as a claim. The Board may join claims that arise from the same incident, without prejudice to the right of each party to present evidence with or without counsel.

4. The Board may request further information and documents from the parties to the dispute or from appropriate governmental agencies. All statements, reports, or other documents presented to the Board shall be duly sworn and attested as to their authenticity, insofar as reasonably possible. Official Government reports and documents need not be so authenticated.

5. If either the claimant or the respondent requests a hearing, or if the Board deems it desirable to hold a hearing, the Board shall convene a hearing regarding the incident. The claimant and respondent may appear at the hearing, personally or through a representative, with or without counsel, and may present witnesses. The Board may invite as a witness any person, organization, corporation or other entity which has a direct interest in or knowledge of the matter. The claimant and respondent shall be permitted to question all persons testifying at the hearing, provided that no person shall be required to respond to any question.

6. The Governments will facilitate the work of the Board.

SECTION IV

Conciliation Report

1. The Board shall prepare a report containing its findings as to:
 - a. the facts giving rise to the claim;
 - b. the extent of damage or loss;
 - c. the degree of respondent's or claimant's responsibility, if any; and

d. the amount, if any, which should be paid by respondent or claimant as compensation for losses arising from the incident.

2. If the Board does not unanimously adopt the findings, this shall be stated in the report, and the report shall contain separate statements of each Board member's opinion.

3. The Board shall transmit its report to the claimant, to the respondent, and to each of the two Governments no later than sixty days after the completion of the procedure under Section III.

4. Within thirty days after receipt of the Board's report, either the claimant or the respondent may request in writing that the Board reconsider its report. The request shall set forth the reasons for the request and material substantiating the request. The Board may decide to reconsider its report and, if it deems appropriate, receive new evidence or convene a rehearing, or both. Section III procedures will be applicable to the reconsideration.

5. The two Governments undertake to encourage settlement of claims in accordance with the findings of the Board.

6. Within sixty days of receipt of the Board's report each Government shall report to the Board in writing the actions taken by its nationals pursuant to the Board's findings.

7. If one of the parties to a conciliation proceeding refuses to settle in accordance with the findings of the Board, the Board shall encourage the parties to submit their dispute to binding arbitration.

8. The Board's report and the report of each Government shall be published in the form agreed by the Board.

SECTION V

Use of the Board

The two Governments shall encourage their nationals to use in the first instance the Board to settle claims resulting from damage to or loss of fishing gear and vessels. The Governments shall give information about the Board to interested persons.

SECTION VI

Applicable Law

In all proceedings under this Annex the Board shall apply:

1. international conventions, whether general or particular, establishing rules expressly recognized by the two Governments, including bilateral and multilateral agreements between the two Governments dealing with fisheries and maritime matters generally;

2. international custom, as evidence of a general practice accepted as law;

3. the general principles of law recognized by nations;

4. judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

SECTION VII

Other Remedies

1. Nothing in this Annex shall preempt, prejudice, or in any other way affect judicial proceedings, or the right to institute such proceedings or in any way prejudice or affect the substantive or procedural rights of any person, whether or not such person appears before or participates in the proceedings of the Board.

2. No claim shall be brought the substance of which has been or is being adjudicated or arbitrated between the parties. The Board may refuse to consider a claim on the grounds that it should be joined to an existing judicial proceeding involving substantially the same issues and in which the law applicable to such judicial proceeding appears to permit such joinder.

3. The Board shall immediately suspend conciliation proceedings regarding a claim in respect to which judicial proceedings are instituted, unless the court before which the proceedings are pending determines, in the exercise of its lawful authority, that the parties may continue to proceed before the Board.

4. The Board shall immediately terminate conciliation proceedings regarding a claim in respect to which there is a binding agreement to arbitrate.

SECTION VIII

Funding

Each Government shall pay all expenses, including compensation, of the members it appoints to the Board and of any technical advisers it appoints. The two Governments will share equally all the administrative and operational costs of the Board. Such costs do not include expenses related to the presentation or production of evidence or the appearance of witnesses.

SECTION IX

Review

At the request of either Government, representatives of the two Governments shall meet to review the operation of this Annex and to consider proposals for its revision. This Annex may be amended through an exchange of notes between the two Governments.

SECTION X

Termination

At any time either Government may give written notice to the other Government of its intention to denounce this Annex, in which case the Annex shall terminate sixty days from the date of the notification, provided that the effect of the Annex shall in any event continue until the conclusion of conciliation proceedings and arbitrations instituted prior to its termination, unless otherwise agreed by the two Governments.

ANNEX III

DATA COLLECTION AND REPORTING REQUIREMENTS FOR POLISH VESSELS

The reporting procedure described below is designed to contribute to continuing needs for assessment of the status of stocks. However, specific needs may develop from time to time which require a change in standard procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures for reporting must be flexible enough to accommodate necessary changes. It also implies that some form of archiving of the basic data be developed so that retrieval at a later date in a different format is possible.

All data described below for the Atlantic area shall be reported to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts; data for the Pacific area shall be reported to the Director, Northwest Region, National Marine Fisheries Service, Seattle, Washington.

1. Statistical Information Requirements for All Fisheries

a. Atlantic Coast

Catch and Effort: Three months after the close of each quarter, catch-effort statistics for biweekly time periods for 30-minute square areas will be reported by vessel for the previous quarter. These will be reported using 30-minute square Statlant 21 B Forms or magnetic tape, computer cards or printouts for all species and gear types.

Vessel logbook data is to be available for selected, specific joint assessment studies. The collection of samples, specified in 2. below, should also be annotated in the logbook.

b. Pacific Coast

(1) Statistical Information Requirements for Gulf of Alaska Trawl Fisheries Fishery Data: Poland shall report by May 30 of the following year annual catch and effort statistics, as follows: Effort in hours trawled, by vessel class, by gear type, by month, by $\frac{1}{2}^{\circ}$ Latitude x 1° Longitude statistical area; Catch in metric tons, by vessel class, by gear type, by month, by $\frac{1}{2}^{\circ}$ Latitude x 1° Longitude statistical area, by the following species groupings: Rocksole, Flathead sole, Arrowtooth flounder, Other flounders, Pacific ocean perch, Other rockfishes, Pacific cod, Sablefish, Alaska pollock, Atka mackerel, Any other species taken in excess of 1,000 mt, Other fishes.

In addition to the annual statistical report above, Poland will report by the end of the following month, provisional monthly fishery information as follows:

Effort in vessel-days on the grounds by vessel class; and Catch in metric tons of flounders, rockfishes, cod, pollock, sablefish, Atka mackerel, and others, for each of the following statistical areas of the International North Pacific Fisheries Commission (INPFC): Charlotte, Southeastern, Yakutat, Kodiak, Chirikof, Shumagin.

(2) Statistical Information Requirements for the Pacific Hake Fisheries

Fishery Data: Poland shall report by May 30 of the following year annual catch and effort statistics, as follows: Effort in hours trawled, by vessel class, by gear type, by month, by $\frac{1}{2}^{\circ}$ Latitude x 1° Longitude statistical area; Catch in metric tons, by vessel class, by gear type, by month, by $\frac{1}{2}^{\circ}$ Latitude x 1° Longitude statistical area, by the following groupings: Hake, Jack mackerel, Pacific ocean perch, Other rockfishes, Sablefish, Dover sole, Other flounders, Anchovies, Herring, Any other species taken in excess of 1,000 mt, Other fishes.

In addition to the annual statistical report above, Poland will report by the end of the following month, provisional monthly fishery information as follows: Effort in vessel-days on the grounds by vessel class; and Catch in metric tons of hake, jack mackerel, rockfishes, flounders, and others, for each of the following statistical areas of the INPFC: Conception, Monterey, Eureka, Columbia, Vancouver (including that portion off Canada).

2. Procedures for Scientific Samples

a. Atlantic Coast

(1) Length-age composition samples

(a) Samples should be taken separately for each gear type (e.g., bottom trawl, pelagic trawl, purse seine) and water layer (e.g., on the bottom, midwater level) combination every month for which fishing is pursued by 30-minute square areas throughout the agreement region. One sample should be taken for every 1,000 tons or fraction thereof within the above categories.

(b) Data to be recorded for each sample:

Vessel classification,
Method of fishing; e.g., pelagic,
Specific type of trawl, including reference to its construction or actual scale drawing,
Mesh sizes,
Tonnage of the species sampled in the trawl haul,
Total weight of the fish sampled,
Time of day of haul,
Date,
Latitude and longitude of haul.

(c) Sampling procedures:

(i) Species for which the catch is sorted

(a) From a single net haul take 4 random aliquots of approximately 50 fish each. (For species with less than 200 fish in a single trawl haul accumulate samples over trawl hauls until approximately 200 fish are taken.)

(b) Measure fork length for each fish to nearest cm, except for herring where the measurement will be the total length to the nearest cm below. Where other measurement systems are used, appropriate conversion information must be supplied.

- (c) Take a subsample of one fish from each cm interval and remove scales and otoliths as appropriate. Record the sex of mature individuals.
- (ii) Species for which catch is not sorted
 - (a) From a single trawl take 2 random aliquots of approximately 30 kilos each.
 - (b) Sort to individual species (for "river herring" this means sorting to alewife *Alosa pseudoharengus* and blueback *A. aestivalis*).
 - (c) Measure fork length for each fish to nearest cm, except for herring where the measurement will be the total length to the nearest cm below. Where other measurement systems are used, appropriate conversion information must be supplied.
 - (d) Take a subsample of one fish from each cm interval and remove scales and otoliths as appropriate. Record the sex of mature individuals.

(2) Length-weight samples

Individuals of one sample of each principal species of fish (e.g., expected yearly catch in area of agreement of 500 or more tons), per International Commission for the Northwest Atlantic Fisheries (ICNAF) Division per month, should be weighed in grams and measured in millimeters. Each sample will contain 10 fish per centimeter interval. The length range of fish may be accumulated if necessary from small samples taken over several catches and days. With small fish, where weighing at sea of individuals is not accurate, appropriate numbers of fish of the same length class shall be weighed in aggregate. Sex shall be recorded for mature individuals.

b. Pacific Coast

Biological sampling by Poland will be conducted and measurements from sampling recorded according to sampling procedures developed and coordinated through consultations between United States and Polish scientists to answer specific and current research needs.

3. Amendment Procedure

The procedures in this Annex may be amended by agreement through an exchange of notes between the two Governments.

AGREED MINUTES

The representatives of the Government of the United States and the Government of Poland have agreed to record the following in connection with the Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Concerning Fisheries off the Coasts of the United States signed today:

1. With respect to Article III, paragraph 4 of the Agreement, signed today, the two Governments agreed to take note that the administration of the Agreement during the first year of its operation would be in some respects transitional in nature. The two Govern-

ments further noted that, taking this into account, the Government of the United States informed the Government of Poland that, without prejudice to the completion of certain internal procedures resulting in operative determinations in this regard, it had determined on a tentative and contingency basis that the portion of the allowable catch for certain fisheries that will not be harvested by United States fishing vessels and that could be made available to Poland during 1977 is expected to be as follows:

- a. For the Northwest Atlantic Coast of the United States.

Should the International Commission for the Northwest Atlantic Fisheries (ICNAF) cease to be effective with respect to the United States in 1977, the portion of the allowable catch that could be expected to be made available to Poland in 1977 would reflect the United States views offered at the December 1976 meeting of ICNAF.

- b. For the Northeastern Pacific Coast of the United States.

The United States takes note of paragraph 4 of the Agreed Minutes of the United States-Poland Pacific Bilateral Agreement which expires December 31, 1976. Although an appropriate plan for the fishery for 1977 has not been approved in accordance with the internal procedures under the law of the United States, for 1977 the Government of the United States anticipates that, based on current stock assessments, the availability of the resource will result in lowered levels of fishing by all foreign nations, and that therefore Poland may expect that following completion of a plan and negotiations with others, its fishery will be reduced.

2. The Government of the United States, taking note of the Agreement, signed today, and the desirability for both Governments to voluntarily continue certain conservation and management measures pending the entry into force of said Agreement, desires to inform the Government of Poland of the following:

- a. With regard to the former Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Regarding Fisheries in the Western Region of the Middle Atlantic Ocean which entered into force July 1, 1975, and expired on June 30, 1976, the United States is prepared to:

- (1) continue accepting requests from Polish fishing, fishery research and fishery support vessels to enter designated United States ports in accordance with Article 7 of that Agreement; and

- (2) continue measures to minimize fishing gear conflicts between fishing vessels of the two countries in accordance with Article 9 of that Agreement;

- (3) undertake the internal procedures necessary to continue to grant access to Polish fishing vessels to conduct loading operations in the waters described in Article 6 of that Agreement, and in accordance with the requirements in that Article.

- b. The commitments and undertakings in paragraph a. above by the Government of the United States shall be assumed during the transitional period prior to entry into force of the

Agreement, signed today, with the understanding that the Government of Poland intends to voluntarily abide by the fishing restrictions and conservation measures of Articles 2, 3, 4, 5, 9 and 11 of the former Agreement. It is further the understanding of the Government of the United States that should ICNAF cease to be effective with respect to either Government during the transitional period, the Government of Poland intends to apply in that portion of the Convention Area off the coast of the United States, the applicable catch, area, fishing gear and seasonal restrictions that would have applied under ICNAF.

c. With regard to the existing Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Regarding Fisheries in the Northeastern Pacific Ocean off the Coast of the United States which entered into force on January 1, 1976, and expires on December 31, 1976, the Government of the United States is prepared to continue measures to minimize gear conflicts between fishing vessels of the two countries in accordance with Article 7 of that Agreement.

d. The commitments in paragraph c. above by the Government of the United States shall be assumed during the transitional period following December 31, 1976, with the understanding that the Government of Poland intends to voluntarily abide by fishing restrictions and conservation measures during the same period pursuant to Articles 4, 5, 6, 7 and 10 of the same Agreement.

3. It is understood by the representatives of both Governments that during 1977 Poland will be implementing a logbook system for collection of fishery statistics for the Northwest Atlantic suitable for computer processing. Full implementation of this program may not occur until 1978.

To facilitate meeting the statistical reporting requirements, the Government of the United States agrees to assist in the transfer of logbook records to Poland when requested to do so by Polish authorities.

The Polish sampling program in the Atlantic area referred to in ANNEX III will consist of three teams of two sea samplers each. Teams will be assigned to the main season of the herring, mackerel and squid fisheries. Each team will be in the area approximately two to three months. During that time the samplers will work according to the guidelines outlined in the data and sampling requirements in ANNEX III of the Agreement. Use may be made of United States Coast Guard Cutters to facilitate transfers of samplers between fishing vessels when Coast Guard operations permit. Where observers are aboard Polish vessels, it is anticipated that they will assist in the sampling program.

By the end of 1977, when the first results from processing of the new logbook data will be available, this material and these statistical procedures will be reviewed at the next regularly scheduled meeting between scientists.

4. With respect to Article XII of the Agreement, both representatives, noting the desirability of cooperation among commercial fishing enterprises of the United States and Poland, and noting the efforts of the Joint American-Polish Trade Commission in furthering

economic and commercial cooperation between the two countries, agreed that it would be appropriate to discuss during annual meetings of the Joint American-Polish Trade Commission the existing legal and regulatory framework under which such cooperation could take place.

5. The representatives of the Government of Poland noted that Poland may submit applications for permits under Article VI of the Agreement for flag vessels of other countries with which the United States has diplomatic relations, chartered by or under contract to a Polish fishing company.

The representative of the Government of the United States noted that such applications would be considered and reviewed in accordance with United States law.

ROZANNE L. RIDGWAY.
E. WISNIEWSKI.

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